



This Recommended Order and Decision became the Order and Decision of the  
Illinois Human Rights Commission on 5/18/05.

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF:**

**SALVADOR ACEVES,**

**Complainant,**

**and**

**EVERLAST CONCRETE, INC. and**

**ARTECH CONCRETE, INC.,**

**Respondents.**

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**Charge No.: 2003CA0239**

**EEOC No.: 21BA22980**

**ALS No.: 12187**

**RECOMMENDED ORDER AND DECISION**

On October 1, 2003, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Salvador Aceves. That complaint alleged that Respondents, Everlast Concrete, Inc. and Artech Concrete, Inc., discriminated against Complainant on the bases of his age and his national origin when they discharged him.

This matter now comes on to be heard on Respondent's Motion to Dismiss Complaint. Although the motion was served by mail on Complainant, he failed to file any written response or to appear at the hearing on the motion. The matter is ready for decision.

**FINDINGS OF FACT**

The following facts were derived from the record file in this matter.

1. On November 18, 2004, pursuant to Respondents' motion, Complainant's discovery responses were stricken. That same day, Complainant was ordered to provide new discovery responses on or before December 21, 2004. Complainant was present in person when that order was entered.

2. Complainant has failed to provide the required discovery responses and has not given any explanation for that failure.

3. Complainant did not appear for the scheduled status hearing on January 20,

2005. Respondents were given leave to file a motion to dismiss. A hearing on that motion to dismiss was scheduled for February 17, 2005.

4. Neither party appeared on February 17, 2005. A new status hearing was set for March 17, 2005. An order containing the new status date was mailed to the parties on February 28, 2005.

5. On February 23, 2005, Respondents mailed their Motion to Dismiss Complaint to Complainant and to the Illinois Department of Human Rights. Respondents' notice of motion indicated that the motion to dismiss would be heard on March 17, 2005.

6. Complainant did not file any written response to Respondents' motion to dismiss and did not appear at the scheduled hearing on the motion.

#### CONCLUSIONS OF LAW

1. Complainant's failure to answer discovery has unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of his claim, the complaint in this matter should be dismissed with prejudice.

#### DISCUSSION

Complainant was ordered to provide discovery answers by December 21, 2004. To date, those answers have not been provided. Moreover, he has missed three consecutive status hearings. Even a motion to dismiss failed to elicit a response. Complainant's inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned his claim. As a result, it is appropriate to dismiss his claim with prejudice. *See Leonard and Solid Matter, Inc.*, \_\_\_ Ill. HRC Rep. \_\_\_, (1989CN3091, August 25, 1992).

#### RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned his claim.

Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: March 22, 2005